

AMENDED IN ASSEMBLY APRIL 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1669

Introduced by Assembly Member Perea

February 14, 2012

An act to ~~amend Section 83002 of the Water Code~~ *add Section 13444 to the Water Code*, relating to water, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1669, as amended, Perea. ~~Safe drinking water and water quality projects: groundwater contamination. Groundwater: Nitrate at Risk Area Fund.~~

Existing law establishes the State Water Resources Control Board and authorizes the board to adopt regulations to carry out its powers and duties. Under existing law, the Porter-Cologne Water Quality Control Act, the board is required to formulate and adopt state policy for water quality control.

Existing law, the California Safe Drinking Water Act, requires the State Department of Public Health to administer provisions relating to the regulation of drinking water to protect public health, including, but not limited to, conducting research, studies, and demonstration programs relating to the provision of a dependable, safe supply of drinking water; enforcing the federal Safe Drinking Water Act, adopting enforcement regulations, and conducting studies and investigations to assess the quality of water in domestic water supplies.

This bill would establish the Nitrate at Risk Area Fund, to be administered by the board and, upon appropriation by the Legislature, moneys in the fund would be available for the purposes of developing

and implementing sustainable and affordable solutions for disadvantaged communities in areas reliant on nitrate-contaminated groundwater as their source of drinking water, as determined by the board and the department.

~~The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative bond act approved by the voters at the November 7, 2006, statewide general election, authorizes the issuance of bonds in the amount of \$5,388,000,000 for the purposes of financing a safe drinking water, water quality and supply, flood control, and resource protection program. Existing law appropriates from those bond funds \$50,400,000 to the State Department of Public Health for grants for projects to prevent or reduce the contamination of groundwater that serves as a source of drinking water and requires that the funds be available for immediate projects needed to protect public health, as prescribed.~~

~~This bill would eliminate the requirement that the projects be immediate. By removing a restriction on the expenditure of appropriated funds, this bill would make an appropriation.~~

Vote: majority. Appropriation: ~~yes~~-no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 13444 is added to the Water Code, to*
2 *read:*

3 *13444. (a) The Nitrate at Risk Area Fund is hereby established*
4 *in the State Treasury, to be administered by the state board. Upon*
5 *appropriation by the Legislature, moneys in the fund shall be*
6 *available for the purposes of developing and implementing*
7 *sustainable and affordable solutions for disadvantaged*
8 *communities in areas designated pursuant to subdivision (b).*

9 *(b) The state board, in conjunction with the State Department*
10 *of Public Health, shall designate areas that are reliant on*
11 *nitrate-contaminated groundwater for their source of drinking*
12 *water and that do not have reliable access to safe, affordable*
13 *drinking water.*

14 ~~SECTION 1. Section 83002 of the Water Code is amended to~~
15 ~~read:~~

1 83002. ~~The sum of eight hundred twenty million nine hundred~~
2 ~~seventy-three thousand dollars (\$820,973,000) is hereby~~
3 ~~appropriated in accordance with the following schedule:~~

4 ~~(a) Of the funds made available pursuant to Chapter 1.699~~
5 ~~(commencing with Section 5096.800) of Division 5 of the Public~~
6 ~~Resources Code, the sum of two hundred eighty-five million dollars~~
7 ~~(\$285,000,000) is hereby appropriated as follows:~~

8 ~~(1) Pursuant to subdivision (c) of Section 5096.821 of the Public~~
9 ~~Resources Code, the sum of one hundred thirty-five million dollars~~
10 ~~(\$135,000,000) to the department for the acquisition, design, and~~
11 ~~construction of essential emergency preparedness supplies and~~
12 ~~projects. Prior to the design or construction of any project funded~~
13 ~~pursuant to this paragraph, the California Bay-Delta Authority, or~~
14 ~~its successor, shall approve the specific project or program.~~
15 ~~Preference shall be given to projects that protect and improve Delta~~
16 ~~water quality and drinking water supplies. Of the amount made~~
17 ~~available pursuant to this paragraph, not less than thirty-five million~~
18 ~~dollars (\$35,000,000) shall be expended by the department for~~
19 ~~projects to reinforce those sections of the levees that have the~~
20 ~~highest potential to suffer breaches or failure and cause harm to~~
21 ~~municipal and industrial water supply aqueducts that cross the~~
22 ~~Delta and which are vulnerable to flood damage, including the~~
23 ~~installation of scour protection on the supports of the aqueducts~~
24 ~~in those areas located adjacent to the sections of the levees that~~
25 ~~have been identified as having the highest risk for breaches or~~
26 ~~failure.~~

27 ~~(2) Pursuant to Section 5096.827 of the Public Resources Code,~~
28 ~~the sum of one hundred fifty million dollars (\$150,000,000) to the~~
29 ~~department for grants for stormwater flood management projects~~
30 ~~that reduce flood damage and provide other benefits, including~~
31 ~~groundwater recharge, water quality improvement, and ecosystem~~
32 ~~restoration. Not less than one hundred million dollars~~
33 ~~(\$100,000,000) of this amount shall be available for projects that~~
34 ~~address immediate public health and safety needs or strengthen~~
35 ~~existing flood control facilities to address seismic safety issues.~~
36 ~~Twenty million dollars (\$20,000,000) shall be available for local~~
37 ~~agencies to meet immediate water quality needs related to~~
38 ~~combined municipal sewer and stormwater systems to prevent~~
39 ~~sewage discharges into state waters. Twenty million dollars~~
40 ~~(\$20,000,000) shall be available for urban stream stormwater flood~~

1 management projects to reduce the frequency and impacts of
2 flooding in watersheds that drain to the San Francisco Bay.

3 (b) Of the funds made available pursuant to Division 43
4 (commencing with Section 75001) of the Public Resources Code,
5 the sum of five hundred twenty-six million four hundred ninety-one
6 thousand dollars (\$526,491,000) is hereby appropriated as follows:

7 (1) Pursuant to Section 75022 of the Public Resources Code,
8 the sum of fifty million dollars (\$50,000,000) to the State
9 Department of Public Health for grants for small community
10 drinking water system infrastructure improvements and related
11 action to meet safe drinking water standards. First priority for these
12 funds shall be given to disadvantaged or severely disadvantaged
13 communities lacking resources to provide safe drinking water to
14 residents. Small community drinking water systems that are
15 dependent on surface water and are under orders from the State
16 Department of Public Health to boil water from existing treatment
17 systems for parasites, viruses, or giardia shall be eligible for grants
18 for drinking water system infrastructure improvements.

19 (2) Pursuant to Section 75025 of the Public Resources Code,
20 the sum of fifty million four hundred thousand dollars
21 (\$50,400,000) to the State Department of Public Health for grants
22 for projects to prevent or reduce the contamination of groundwater
23 that serves as a source of drinking water. Funds appropriated by
24 this paragraph shall be available for projects needed to protect
25 public health by preventing or reducing the contamination of
26 groundwater that serves as a major source of drinking water for a
27 community.

28 (A) The State Department of Public Health shall prioritize
29 project funding based on the following criteria:

30 (i) The threat posed by groundwater contamination to the
31 affected community's overall drinking water supplies, including
32 the need for the treatment or construction of alternative supplies
33 if groundwater is not available due to contamination.

34 (ii) The potential for groundwater contamination to spread and
35 reduce drinking water supply and water storage capacity for major
36 population areas.

37 (iii) The potential of the project, if fully implemented, to enhance
38 local water supply reliability.

39 (iv) The potential of the project to increase opportunities for
40 groundwater recharge and optimization of groundwater supplies.

1 ~~(B) The State Department of Public Health shall give additional~~
2 ~~consideration to projects that meet any of the following criteria:~~

3 ~~(i) The project is implemented pursuant to a comprehensive~~
4 ~~basinwide groundwater quality management and remediation plan~~
5 ~~or is necessary to develop a comprehensive groundwater plan.~~

6 ~~(ii) Affected groundwater provides a local supply that, if~~
7 ~~contaminated, will require the importation of additional water from~~
8 ~~the Sacramento-San Joaquin Delta or the Colorado River.~~

9 ~~(iii) The project will serve an economically disadvantaged~~
10 ~~community.~~

11 ~~(iv) Multiple contaminants affect more than one-third of the~~
12 ~~well capacity of a local water system.~~

13 ~~(C) Of the amount made available by this paragraph, up to ten~~
14 ~~million dollars (\$10,000,000) shall be allocated for projects that~~
15 ~~meet the criteria of this paragraph and both of the following~~
16 ~~criteria:~~

17 ~~(i) The project has the potential to leverage funds.~~

18 ~~(ii) The project addresses contamination at a site on the list~~
19 ~~maintained by the Department of Toxic Substances Control~~
20 ~~pursuant to Section 25356 of the Health and Safety Code or a site~~
21 ~~listed on the National Priorities List pursuant to the federal~~
22 ~~Comprehensive Environmental Response, Compensation, and~~
23 ~~Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.).~~

24 ~~(D) Of the funds made available by this paragraph, two million~~
25 ~~dollars (\$2,000,000) shall be allocated to the State Department of~~
26 ~~Public Health to contract with the State Water Resources Control~~
27 ~~Board for the purposes of Section 83002.5.~~

28 ~~(3) (A) Pursuant to Section 75026 of the Public Resources~~
29 ~~Code, the sum of one hundred eighty-one million seven hundred~~
30 ~~ninety-one thousand dollars (\$181,791,000) to the department for~~
31 ~~integrated regional water management activities as follows:~~

32 ~~(i) One hundred million dollars (\$100,000,000) for~~
33 ~~implementation grants.~~

34 ~~(ii) Thirty-nine million dollars (\$39,000,000) for planning grants,~~
35 ~~local groundwater assistance grants, and CALFED scientific~~
36 ~~research grants.~~

37 ~~(iii) Twenty-two million ninety-one thousand dollars~~
38 ~~(\$22,091,000) for projects with interregional or statewide benefits.~~

39 ~~Of the amount made available pursuant to this paragraph, not~~
40 ~~less than ten million dollars (\$10,000,000) shall be made available~~

1 for expenditure to interconnect municipal and industrial water
2 supply aqueducts that cross the Delta and that are vulnerable to
3 flood damage, including the design and construction of interties
4 among aqueducts that provide at least 90 percent of a regional
5 water supply that would be threatened in the event of levee failure
6 or other disaster, and that support an integrated regional emergency
7 water supply system.

8 (iv) Twenty million seven hundred thousand dollars
9 (\$20,700,000) for program delivery costs.

10 (B) An implementation grant pursuant to clause (i) of
11 subparagraph (A) shall be available only for projects included in
12 an integrated regional water management plan that meets one of
13 the following conditions:

14 (i) The plan complies with Part 2.2 (commencing with Section
15 10530) of Division 6.

16 (ii) For a plan adopted before the date on which this section is
17 enacted, both of the following apply:

18 (I) The regional water management group that prepared the plan
19 enters into a binding agreement with the department to update the
20 plan to comply with Part 2.2 (commencing with Section 10530)
21 of Division 6 within two years of the date on which the agreement
22 was entered into.

23 (II) The regional water management group undertakes all
24 reasonable and feasible efforts to take into account water-related
25 needs of disadvantaged communities in the area within the
26 boundaries of the plan.

27 (C) (i) Of the funds described in clauses (i) and (ii) of
28 subparagraph (A), the department shall allocate not less than 10
29 percent to facilitate and support the participation of disadvantaged
30 communities in integrated regional water management planning
31 and for projects that address critical water supply or water quality
32 needs for disadvantaged communities.

33 (ii) Except as otherwise specified in clause (iii), the department
34 shall achieve the allocation described in clause (i) by awarding
35 grants for those purposes to disadvantaged communities within a
36 hydrologic region in a total dollar amount that is not less than 10
37 percent of the total dollar amount of grants awarded within the
38 region.

39 (iii) The department shall implement this subparagraph with
40 due diligence, but shall implement clause (ii) only to the extent

1 that the implementation does not affect the expeditious allocation
2 of funds for integrated regional water management grants:

3 (iv) The department shall submit a report to the Legislature with
4 regard to the implementation of this subparagraph on or before
5 July 1, 2010.

6 ~~(D) Of the funds described in clause (iii) of subparagraph (A),
7 the department shall allocate two million dollars (\$2,000,000) to
8 Tulare County for development of an integrated water quality and
9 wastewater treatment program plan to address the drinking water
10 and wastewater needs of disadvantaged communities in the Tulare
11 Lake Basin. Funds allocated pursuant to this paragraph shall be
12 available for assessment and feasibility studies necessary to develop
13 the plan, and the plan shall include recommendations for planning,
14 infrastructure, and other water management actions, and shall
15 include specific recommendations for regional drinking water
16 treatment facilities, regional wastewater treatment facilities,
17 conjunctive use sites and groundwater recharge, groundwater for
18 surface water exchanges, related infrastructure, and cost-sharing
19 mechanisms. Tulare County shall consult with appropriate
20 stakeholders, including representatives of disadvantaged
21 communities, when preparing the plan. The department, in
22 consultation with the State Department of Public Health, shall
23 submit the plan to the Legislature by January 1, 2011.~~

24 ~~(E) Of the funds described in clause (i) of subparagraph (A),
25 the department shall allocate not less than twenty million dollars
26 (\$20,000,000) to support urban and agricultural water conservation
27 projects necessary to meet a 20-percent reduction in per capita
28 water use by the year 2020.~~

29 ~~(4) Pursuant to Section 75029 of the Public Resources Code,
30 the sum of ninety million dollars (90,000,000) to the department
31 for the implementation of Delta water quality improvement projects
32 that protect drinking water supplies as follows:~~

33 ~~(A) Pursuant to subdivision (d) of Section 75029 of the Public
34 Resources Code, the sum of fifty million dollars (\$50,000,000)
35 for drinking water intake facility projects to improve the quality
36 of drinking water supply from the Sacramento-San Joaquin Delta
37 that are identified in the June 2005 Delta Region Drinking Water
38 Quality Management Plan. Funding shall be made available for
39 environmental review, design, and construction. Project proponents~~

1 seeking funding for construction shall meet all of the following
2 criteria:

3 (i) ~~Have completed documentation required under the California~~
4 ~~Environmental Quality Act (Division 13 (commencing with Section~~
5 ~~21000) of the Public Resources Code) and a notice of determination~~
6 ~~has been filed prior to June 30, 2008.~~

7 (ii) ~~Have demonstrated multiple benefits in conveyance and~~
8 ~~Delta operation to achieve protection or improvement to Delta~~
9 ~~pelagic fisheries, as well as drinking water quality improvement~~
10 ~~and public health protection.~~

11 (iii) ~~Are able to complete design and commence construction~~
12 ~~before June 30, 2009.~~

13 (iv) ~~Have local or federal cost-sharing funds immediately~~
14 ~~available.~~

15 (B) ~~The sum of forty million dollars (\$40,000,000) for projects~~
16 ~~consistent with subdivision (c) of Section 75029 of the Public~~
17 ~~Resources Code.~~

18 (5) ~~Pursuant to Section 75033 of the Public Resources Code,~~
19 ~~the sum of one hundred million dollars (\$100,000,000) to the~~
20 ~~department for the acquisition, preservation, protection, and~~
21 ~~restoration of Sacramento-San Joaquin Delta resources in~~
22 ~~accordance with Section 75033 of the Public Resources Code. The~~
23 ~~department shall expend these funds pursuant to priorities that~~
24 ~~reflect the value of the resources and land uses protected by the~~
25 ~~levees to the state as a whole, consistent with the Delta Vision~~
26 ~~Strategic Plan. Projects shall be selected to improve the stability~~
27 ~~of the Delta levee system, reduce subsidence, and assist in restoring~~
28 ~~the ecosystem of the Delta. Priority shall be given to projects that~~
29 ~~improve conditions for Delta smelt and other native fish. Up to~~
30 ~~five million dollars (\$5,000,000) made available pursuant to this~~
31 ~~paragraph shall be available as grants and direct expenditures for~~
32 ~~emergency communications equipment to improve emergency~~
33 ~~response preparedness.~~

34 (6) ~~Pursuant to Chapter 4 (commencing with Section 75041) of~~
35 ~~Division 43 of the Public Resources Code, the sum of thirty-seven~~
36 ~~million dollars (\$37,000,000) to the department as follows:~~

37 (A) (i) ~~Twelve million dollars (\$12,000,000) to complete the~~
38 ~~planning and feasibility studies associated with new surface storage~~
39 ~~under the California Bay-Delta Program.~~

1 ~~(ii) The planning and feasibility studies shall include the~~
2 ~~following information:~~

3 ~~(I) The identification of specific construction and operation~~
4 ~~conditions proposed for each surface storage facility, including~~
5 ~~consideration of climate change, an estimated schedule for the~~
6 ~~construction and completion of each project funded under Section~~
7 ~~75041, and the total costs of constructing each project.~~

8 ~~(II) A description of the estimated total costs to construct each~~
9 ~~project and an allocation of the costs to public and private~~
10 ~~beneficiaries.~~

11 ~~(iii) Any feasibility study conducted by or funded by the state~~
12 ~~for new surface storage under the California Bay-Delta Program~~
13 ~~shall evaluate funded projects consistent with all statutory and~~
14 ~~other legally established requirements for protection of~~
15 ~~environmental and natural resources, including protections for the~~
16 ~~McCloud River pursuant to Section 5093.542 of the Public~~
17 ~~Resources Code.~~

18 ~~(iv) The feasibility studies shall be prepared and submitted to~~
19 ~~the Governor and the Legislature no later than December 31, 2009.~~

20 ~~(B) (i) Fifteen million dollars (\$15,000,000) for planning and~~
21 ~~feasibility studies to identify potential options for the reoperation~~
22 ~~of the state's flood protection and water supply systems that will~~
23 ~~optimize the use of existing facilities and groundwater storage~~
24 ~~capacity.~~

25 ~~(ii) The studies shall incorporate appropriate climate change~~
26 ~~scenarios and be designed to determine the potential to achieve~~
27 ~~the following objectives:~~

28 ~~(I) Integration of flood protection and water supply systems to~~
29 ~~increase water supply reliability and flood protection, improve~~
30 ~~water quality, and provide for ecosystem protection and restoration.~~

31 ~~(II) Reoperation of existing reservoirs, flood facilities, and other~~
32 ~~water facilities in conjunction with groundwater storage to improve~~
33 ~~water supply reliability, flood control, and ecosystem protection~~
34 ~~and to reduce groundwater overdraft.~~

35 ~~(III) Promotion of more effective groundwater management and~~
36 ~~protection and greater integration of groundwater and surface water~~
37 ~~resource uses.~~

38 ~~(IV) Improvement of existing water conveyance systems to~~
39 ~~increase water supply reliability, improve water quality, expand~~
40 ~~flood protection, and protect and restore ecosystems.~~

1 ~~(C) Ten million dollars (\$10,000,000) to update the California~~
2 ~~Water Plan, including evaluation of climate change impacts, the~~
3 ~~development of strategies to adapt to climate change impacts,~~
4 ~~technical assistance to local agencies that incorporate climate~~
5 ~~change into their studies, reports, and plans, and the identification~~
6 ~~of strategies to reduce greenhouse gas emissions related to the~~
7 ~~storage, conveyance, and distribution of water.~~

8 ~~(D) Of the money made available pursuant to subparagraphs~~
9 ~~(A), (B), and (C), up to two million dollars (\$2,000,000) may be~~
10 ~~expended for planning and feasibility studies necessary to~~
11 ~~implement the Delta Vision Strategic Plan, developed pursuant to~~
12 ~~Executive Order No. S-17-06, dated September 28, 2006,~~
13 ~~establishing the Delta Vision process.~~

14 ~~(7) Pursuant to Section 75050 of the Public Resources Code,~~
15 ~~the sum of seventeen million three hundred thousand dollars~~
16 ~~(\$17,300,000) for the protection and restoration of rivers and~~
17 ~~streams as follows:~~

18 ~~(A) Ten million dollars (\$10,000,000) to the State Coastal~~
19 ~~Conservancy for the purposes of subdivision (i) of Section 75050~~
20 ~~of the Public Resources Code.~~

21 ~~(B) Seven million three hundred thousand dollars (\$7,300,000)~~
22 ~~to the department for the purposes of subdivision (c) of Section~~
23 ~~75050 of the Public Resources Code.~~

24 ~~(c) Of the funds made available pursuant to subdivision (a) of~~
25 ~~Section 79550, the sum of three million seven hundred sixty~~
26 ~~thousand dollars (\$3,760,000) is hereby appropriated to the~~
27 ~~department for planning and feasibility studies associated with~~
28 ~~surface storage under the California Bay-Delta Program.~~

29 ~~(d) (1) Of the funds available pursuant to Section 79101, the~~
30 ~~sum of two million two hundred seventy-two thousand dollars~~
31 ~~(\$2,272,000) is appropriated to the department for the Sacramento~~
32 ~~River Hamilton City Area Flood Damage Reduction Project.~~

33 ~~(2) Of the funds available pursuant to subdivision (c) of Section~~
34 ~~79196.5, the sum of three million four hundred fifty thousand~~
35 ~~dollars (\$3,450,000) is appropriated to the department for the~~
36 ~~Franks Tract Pilot Project under the CALFED Drinking Water~~
37 ~~Quality Program.~~